

## **MINUTES**

### **TENNESSEE BOARD OF MEDICAL EXAMINERS**

#### **Development Committee**

**January 26, 2009**

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The meeting was called to order at 6:05 p.m. at the Health Related Boards' Iris Room, 227 French Landing, Ground Floor, Heritage Place Metro Center, Nashville, Tennessee 37243 by Vice-President Dr. Charles White. Other members present were: Drs. Mitchell Mutter, Subhi Ali.

Staff present included: Rosemarie A. Otto, Executive Director, Larry Arnold, M.D., Medical Director and Matthew Scanlan, J.D., Deputy General Counsel and Advisory Attorney.

Ms. Otto explained that Ms. Moran was not available. She provided the Committee with a list of specialties needed to support Dr. Arnold in his review of complaint. The Committee indicated that they and the other board members would be happy to solicit and submit names.

The Committee wanted to discuss disciplinary guidelines where were provided to them for review. Mr. Scanlan provided the Committee with the following information:

All settlements are within the disciplinary guidelines which are really quite broad. He also indicated that all settlements are approved by Dr. Arnold.

Dr. Mutter and Mr. Scanlan discussed the ALJ project and Dr. Mutter indicated that he had not seen any results yet that would cause him to vote to make the project a permanent fixture. In fact, he said that if the vote was today, he would vote to discontinue the project.

Mr. Scanlan indicated that so far, nine of the cases designed for the ALJs have been settled. Four of the fifteen over prescribing cases have settled. Two of the standard of care matters settled and three of the ten matters for fraud, boundary violation, supervision or advertising have settled. Mr. Scanlan said there was no real way to determine if the fact that the cases were scheduled for trial in front of ALJs facilitated the settlement process.

Dr. Mutter again stated that he thought things would go much quicker. He asked if there was a time limit for the time to get the matters in front of the board after conclusion of the ALJ hearing. Mr. Scanlan said that it was his view that it should not take longer than sixty days for a matter once concluded by the ALJ to get an order into the hands of OGC.

Dr. Mutter wanted to be certain that the study of the project included: (1) which ALJs continue most frequently and (2) are the settlements within the disciplinary guidelines.

On a separate note, Mr. Scanlan discussed with the Committee a matter he intended to discuss with the entire board i.e., the board not taking seriously violations of their own board order. He spoke of two recent examples where the physician violated the board order and when OGC brought the action, the doctors were not disciplined. Dr. Mutter indicated that he would like to know more and then he would speak to members about the importance of upholding their own orders.

The Committee adjourned at 7:10 p.m.